IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5324 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

M/S.INDIAN RAYON INDUSTRIS LTD.

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 5324 of 1989
M/S TRIVEDI & GUPTA for Petitioners No. 1-2
MR UR BATT A.G.P. for Respondents No. 1,3
NOTICE SERVED for Respondents No. 2,4

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 07/12/2001

ORAL JUDGEMENT

1. The petitioner is a limited company having its office at Veraval and one of its unit called Jayshree Insulators with factory at Meghasar (Halol) District

Panchmahals. In this petition the petitioner has challenged the order dated 21st April, 1989 (annexure-A) passed by the respondent No.1 under Section 211 of the Bombay Revenue Code, 1879 (hereinafter referred to as "the Code"). It appears that the Taluka Development Officer, Halol, District Panchmahals passed an order dated 6th February, 1982 granting N.A. permission in respect of a piece of land bearing survey No.334/1 of Mouje Santhrota, Taluka Halol, admeasuring 7487 Sq. meters. The respondent No.1 in exercise of its revisional powers under Section 211 of the Code, quashed and set aside the order passed by the Taluka Development Officer.

2. Having heard Mr.Thaker learned advocate appearing on behalf of the petitioner and Mr.U.R. Bhatt, learned A.G.P. appearing for the respondents, the Court felt that it is not necessary to set out the facts and submissions of the parties in detail, in view of the fact that the issue raised in this petition is concluded by the decision of this Court rendered on 16th January, 1995 (Coram : Mr.Justice B.C. Patel) in Special Civil Application No.1651 of 1987 with Spl.C.A. No.1652 of 1987 with Spl.C.A. No.3428 of 1987 with Spl.C.A. No.3429 of 1987 with Spl.C.A. No.5325 of 1987 with Spl.C.A. No.5326 of 1987 with Spl.C.A. No.6470 of 1987.

3. In the aforesaid decision, this Court has taken into consideration the settled legal position as well as the very notification on the basis of which the Taluka Development Officer acquired jurisdictional powers to pass the order dated 6th February, 1982 granting N.A. permission. It has been held by the Court that the revisional powers have to be exercised within the reasonable period and cannot be exercised after expiry of reasonable time. As can be seen from the facts of record, the revisional authority has exercised the powers after a lapse of more than seven years and hence it cannot be stated that the authority exercised its revisional jurisdiction within a reasonable time.

4. In the meantime, the petitioner - Company had spent a huge amounwt for developing the land in question for the purpose of setting up industry thereupon and also placed orders with manufacturers of plant and machinery etc.

5. In the result, for the reasons stated in the aforesaid decision of this Court and in light of the settled legal position, this petition is allowed. The impugned order at annexure-A passed on 21st April, 1989

is quashed and set aside and order passed by the Taluka Development Officer, Halol, dated 6th February, 1982 at annexure-F granting permission for Non-agricultural use under Section 65 of the Code is restored. Rule is made absolute. There shall be no order as to costs.

(D.A. Mehta, J.)

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